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10 Attorneys for Defendants

11  
12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA

15 GOLDEN GATE LODGE OF PLASTERERS'  
AND SHOPHANDS' LOCAL UNION NO. 66,  
16 OPCMIA, AFL-CIO; et al.,

17 Plaintiffs,

18 v.

19 IRONWOOD PLASTERING, INCORPORATED  
a/k/a/ IRONWOOD PLASTERING, INC.;  
20 IRONWOOD SPECIALTIES, INCORPORATED  
a/k/a IRONWOOD SPECIALTIES, INC.; MAX  
21 KARL ROGERS; and LAURA ELIZABETH  
ROGERS;

22 Defendants.

Case No. 13-cv-3228 SI

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT;  
~~PROPOSED~~ ORDER  
CONTINUING CASE  
MANAGEMENT CONFERENCE**

Date: December 19, 2013

Time: 3:30 p.m.

Court: Courtroom 10 – 19th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Judge: Hon. Susan Illston

25 NEYHART,  
26 ANDERSON,  
FLYNN &  
27 GROSBOLL  
ATTORNEYS AT LAW

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JOINT CASE MANAGEMENT CONFERENCE STATEMENT  
CASE No. 13-cv-3228 SI

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

Plaintiffs GOLDEN GATE LODGE OF PLASTERERS' AND SHOPHANDS' LOCAL UNION NO. 66, OPCMIA, AFL-CIO; OPERATIVE PLASTERERS' AND CEMENT MASONS' LOCAL UNION NO. 300, OPCMIA, AFL-CIO; BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA PLASTERERS HEALTH AND WELFARE TRUST FUND; BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA PLASTERING INDUSTRY PENSION TRUST FUND; BOARD OF TRUSTEES OF THE OPERATIVE PLASTERERS LOCAL NO. 66 SUPPLEMENTAL RETIREMENT BENEFIT FUND; BOARD OF TRUSTEES OF THE OPERATIVE PLASTERERS LOCAL UNION NO. 66 JOURNEYMAN AND APPRENTICESHIP TRAINING TRUST FUND; BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA PLASTERERS' JOINT APPRENTICESHIP AND TRAINING TRUST FUND; and BOARD OF TRUSTEES OF THE PLASTERING INDUSTRY LABOR-MANAGEMENT COOPERATION COMMITTEE TRUST FUND (hereafter "Plaintiffs"); and, Defendants IRONWOOD PLASTERING, INCORPORATED a/k/a/ IRONWOOD PLASTERING, INC.; IRONWOOD SPECIALTIES, INCORPORATED a/k/a IRONWOOD SPECIALTIES, INC.; MAX KARL ROGERS; and LAURA ELIZABETH ROGERS (hereafter "Defendants") hereby submit their Joint Case Management Conference Statement, by and through their respective counsel.

Given that Plaintiffs' counsel substituted into this case recently – on or about December 5, 2013 – as well as the fact that the parties are set to go to mediation before Eric P. Angstadt, the Court-appointed mediator, on February 12, 2014, the parties hereby request that the Case

NEYHART,  
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GROSBOLL  
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1 Management Conference scheduled for December 19, 2013 be continued until after the parties'  
 2 mediation session on February 12, 2014.

3 1. Jurisdiction and Service: This is an ERISA collection action, and as such, this  
 4 Court has jurisdiction pursuant to 29 U.S.C. §§ 1132 and 1145. Defendants were served on or  
 5 about July 15, 2013.

6 2. Facts: This case concerns alleged fraud and violations of ERISA by Defendants.  
 7 Plaintiffs allege, in part, that defendant Ironwood Plastering is signatory to collective bargaining  
 8 agreements that mandate the payment of fringe benefit contributions; that defendant Ironwood  
 9 Specialties, Defendants' non-union company, is the alter ego of Ironwood Plastering and therefore  
 10 liable for contributions owed by Ironwood Plastering; that Ironwood Specialties is required to  
 11 submit to an audit; and that the corporate veils of defendants Ironwood Plastering and Ironwood  
 12 Specialties should be pierced and defendants Max Karl Rogers and Laura Elizabeth Rogers held  
 13 personally liable for the sums due.

14 Defendants maintain that there is no alter ego between defendant Ironwood Specialties and  
 15 Ironwood Plastering and there is no liability on the part of the individuals.

16 3. Legal Issues: The principal legal issues in this case is whether defendant Ironwood  
 17 Specialties, which is not a signatory to any of the contracts with the Plaintiffs is required to submit  
 18 to an audit and whether Defendants are liable to Plaintiffs for fringe benefit contributions,  
 19 liquidated damages, collection costs, interest, attorneys' fees, and punitive damages.

20 Defendant Ironwood Specialties, a non signatory to any contracts with Plaintiffs deny any  
 21 obligations to Plaintiffs.

1           4. Motions: Both Plaintiffs and Defendants anticipate filing Motions for Summary  
2 Judgment.

3           5. Amendment of Pleadings: Plaintiffs do not anticipate filing any amended pleadings at  
4 this time.

5           6. Evidence Preservation: The parties have met and conferred pursuant to Fed. R. Civ. P.  
6 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the  
7 issues reasonably evident in this action and reviewed the Guidelines Relating to the Discovery of  
8 Electronically Stored Information (“ESI Guidelines”).

9           7. Disclosures: The parties have exchanged Initial Disclosures.

10           8. Discovery: No discovery has been conducted to date. Pursuant to Fed. R. Civ. P. 26(f),  
11 the parties’ proposed discovery plan is as follows:  
12

13                   (a)     The parties do not propose any changes should be made in the form or  
14 requirement for disclosures under Rule 26(a).  
15

16                   (b)     The parties believe that discovery does not need to be conducted in phases  
17 or be limited to or focused on particular issues.

18                   (c)     The parties do not foresee any issues about disclosure or discovery of  
19 electronically stored information.  
20

21                   (d)     The parties are unaware at this time of any issues about claims of privilege  
22 or of protection as trial-preparation materials.

23                   (e)     The parties do not propose any changes be made in the limitations on  
24 discovery imposed under these rules or by local rule.

25           9. Class Actions: This case is not a class action.

1           10. Related Cases: Parties are not aware of any related cases.

2           11. Relief: Plaintiffs seek the following: a declaratory judgment that defendant Ironwood  
3 Plastering and Ironwood Specialties are alter egos; a declaratory judgment piercing the corporate  
4 veils of defendants Ironwood Plastering and Ironwood Specialties and finding that defendant Max  
5 Karl Rogers and defendant Laura Elizabeth Rogers are personally liable for the judgment; an order  
6 compelling defendant Ironwood Specialties to submit to an audit and to allow the inspection of an  
7 audit of the payroll records of Ironwood Specialties; monetary damages, specifically, unpaid  
8 wages, vacation pay, dues and fringe benefit contributions as the audit shows to be due and owing,  
9 and the cost of performing the audit; liquidated damages in the sum of twenty percent (20%) of the  
10 fringe benefit contribution shortages disclosed by the audit, plus interest on the monetary damages  
11 at the rate of ten percent (10%) per annum from the due date until paid; punitive damages;  
12 attorney's fees, costs and expenses; and such other relief as deemed just and proper by this Court.  
13

14           Defendants seek dismissal of the action and their attorneys' fees and costs.  
15

16           12. Settlement and ADR: The parties are scheduled to attend a mediation session with  
17 Court-appointed mediator Eric Angstadt on February 12, 2014. The parties have simultaneously  
18 filed a stipulation to extend the deadline to complete mediation herewith.

19           13. Consent to Magistrate Judge for All Purposes: Plaintiffs do not consent to a magistrate  
20 judge to conduct further proceedings.  
21

22           14. Other References: Parties do not believe this case is suitable for reference to binding  
23 arbitration, a special master or multi-district litigation.

24           15. Narrowing of Issues: Parties believe the Motions for Summary Judgment will narrow  
25 the issues and make trial unnecessary.  
26

1           16. Expedited Schedule: Plaintiffs do not believe there is a need for this case to proceed  
2 on an expedited basis.

3           17. Scheduling: The parties propose the following dates:

4           June 6, 2014:                   Designation of Experts

5           July 30, 2014:               Discovery Cutoff

6           October 24, 2014:           Hearing of Dispositive Motions

7           January 28, 2015:           Pretrial Conference (3:30 p.m.)

8           February 11, 2015:       Trial

9           18. Trial: Plaintiffs believe the case will be resolved via a Motion for Summary Judgment  
10 and, as such, trial will not be necessary. In the event the case does go to trial, however, Plaintiffs  
11 anticipate a 2-3 day trial.  
12

13           In the event the case does go to trial, Defendants anticipate a 10 day trial.

14           19. Disclosure of Non-party Interested Entities or Persons: The parties have filed their  
15 disclosure statements regarding non-party Interested Entities or Persons.  
16

17           20. The parties believe that the above statement adequately all crucial issues in order that  
18 this action may be resolved.  
19

20           Dated: December 12, 2013

Respectfully submitted,

21           NEYHART, ANDERSON,  
22           FLYNN & GROSBOLL

23           By:                     /s/                      
24           Eileen M. Bissen  
25           Attorneys for Plaintiffs

26           NEYHART,  
27           ANDERSON,  
28           FLYNN &  
          GROSBOLL  
          ATTORNEYS AT LAW

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CASE No. 13-cv-3228 SI

1 Dated: December 12, 2013

Respectfully submitted,

2 STEELE, GEORGE, SCHOFIELD &  
3 RAMOS, LLP

4 By: \_\_\_\_\_/s/

Geoffrey Wm. Steele

Attorneys for Defendants

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[PROPOSED] ORDER

Having read and considered the parties' Joint Case Management Conference Statement,  
and good cause appearing therefore,

IT IS HEREBY ORDERED that the Case Management Conference currently scheduled for  
December 19, 2013 at 3:30 p.m. shall hereby be continued to 3/14/14,  
2014 at 2:30 a.m. / p.m.

Dated: 12/17/13



HONORABLE SUSAN ILLSTON  
United States District Court Judge

NEYHART,  
ANDERSON,  
FLYNN &  
GROSBOLL  
ATTORNEYS AT LAW

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